

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PENSION PLAN,

No. C-12-04738 DMR

Plaintiff(s),

ORDER STRIKING ANSWERS

v.

YUBACON INC,

Defendant(s).

Plaintiffs Pension Plan for Pension Trust Fund for Operating Engineers et al. filed this Employment Retirement Income and Security Act of 1974 (ERISA) action in September 2012 against Defendants Yubacon, Inc., Old Hatchery, Inc., Michael L. Murray, AM Pacific Engineering (“AM”), and MV2 Energy, Inc. (“MV2”). Defendant AM and MV2 filed answers to the complaint in January 2013. [Docket Nos. 20, 21.] Plaintiffs dismissed Defendants Murray, Yubacon, Inc., and Old Hatchery, Inc. in July 2013. [Docket Nos. 36, 42.]

Defendants AM and MV2 were represented by law firm Salamirad Morrow. On March 18, 2014, the court granted the firm’s motion to withdraw. [Docket No. 70 (Order on Mot. to Withdraw).] In the order, the court noted that “Defendants [AM and MV2], who are not natural persons, may only appear in this Court through counsel,” citing Civil Local Rule 3-9(b). (Order on Mot. to Withdraw 2.) The court ordered Defendants AM and MV2 to file substitutions of counsel

1 by no later than April 18, 2014, and warned Defendants that failure to do so by the deadline could
2 result in their answers being stricken. (Order on Mot. to Withdraw 4.)

3 Defendants AM and MV2 have not filed substitutions of counsel. Therefore, the court
4 strikes AM and MV2's answers, Docket Nos. 20 and 21. The court invites Plaintiffs to seek AM
5 and MV2's default and to proceed with a motion for default judgment, should Plaintiffs choose to do
6 so. In addition, Plaintiffs' motion for summary judgment (Docket No. 65) is denied on the grounds
7 that there is no answering party.

8 Pursuant to the order permitting Salamidrad Morrow's withdrawal and requiring the firm to
9 continue to serve on Defendants AM and MV2 all papers in this case, service of this order on
10 Salamidrad Morrow shall constitute service on AM and MV2, and Salamidrad Morrow shall make all
11 reasonable efforts to ensure that AM and MV2 receive actual notice of this order as promptly as
12 possible.

13
14 IT IS SO ORDERED.

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16 Dated: April 24, 2014

